



Via Electronic Mail and Facsimile

November 10, 2003

Ms. Gayleen Perreira  
California Regional Water Quality Control Board  
San Francisco Bay Region  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
Fax (510) 622-2460

Re: Comments on October 2003 Tentative Order, Delta Diablo Sanitation District  
NPDES No. CA0038547

Dear Ms. Perreira:

On behalf of San Francisco BayKeeper, a project of WaterKeepers Northern California ("BayKeeper"), I offer the following comments for your consideration. There is much to praise in the October 2003 Tentative Order and Tentative Self-Monitoring Program for Delta Diablo Sanitation District ("DDSD") NPDES No. CA0038547 ("TO"). The TO correctly holds DDSD to a final limit for lead despite DDSD's request for an interim limit. In addition, BayKeeper appreciates the fact that the interim mercury mass load limit is based on DDSD's final concentration limit, not its interim concentration limit.

BayKeeper also has some concerns about the effects this TO would have if finalized in its present form. The three main concerns are 1) infrequency of testing for basic receiving water parameters, 2) failure to base interim mercury limits on performance, and 3) the proposed change from total to fecal coliform limits.

#### **The Permit Should Require More Frequent Testing**

Under the TO, DDSD would only be required to test receiving waters quarterly for dissolved oxygen, dissolved sulfide, pH, ammonia, nutrients and temperature. These parameters, which are important indicators of the health of the receiving water, fluctuate rapidly. They should be monitored daily.

### **Mercury Limits Should Be Based On Performance, Not Previous Permit**

Interim limits for mercury are not as protective as they should be. The maximum concentration of mercury in DDSD's effluent was .029 µg/l. The TO says that "Historically, IPBLs have been referenced to the 99.87<sup>th</sup> percentile value of recent performance data." TO Findings, p. 18. The TO also describes recent performance data regarding mercury, stating that "[d]uring the period January 2000 through February 2003, the Discharger's effluent concentrations ranged from <0.0165 to the MEC of 0.029 µg/L (59 samples)." TO Findings, p. 19. However, the TO does not set the interim limit for mercury at the 99.87<sup>th</sup> percentile value of recent performance data. Instead, it is set at .084 µg/l, which is the limit from the old permit. The TO does not connect this limit to recent performance data, and in fact does not appear to be related to plant performance at all.

### **Fecal Coliform Limits Are Not Available to DDSD**

The TO proposes to allow DDSD to change from total coliform limits to fecal coliform limits, but such a change cannot be allowed. Any change must comply with the water quality objectives for the receiving waters, which are governed by the "Water Quality Control Plan for the Sacramento-San Joaquin Delta and Suisun Marsh" ("Region 5 Basin Plan"). San Francisco Bay Basin Plan, p. 3-7. Specifically, the San Francisco Bay Basin Plan provides that the Region 5 Basin Plan "shall apply to the waters of the Sacramento-San Joaquin Delta and Suisun Marsh." *Id.* DDSD's receiving waters, New York Slough, are part of the Sacramento-San Joaquin Delta, and therefore the Region 5 Basin Plan objectives apply.

In 2002, Region 5 updated the bacteria objectives in the Region 5 Basin Plan, replacing fecal coliform with *E-coli* as an indicator for contact recreation objectives. The basis for this change is twofold. First, the fecal limits were based on old science, while more recent science shows that *E-coli* is a much better indicator. Second, U.S. EPA has promised to step in to impose *E-coli* standards through its Clean Water Act authority if the state of California does not do so independently.

Because the Region 5 Basin Plan does not provide for fecal coliform limits, the TO should not allow DDSD to study and change to fecal coliform limits. A fecal coliform limit for DDSD would violate the San Francisco Bay Basin Plan, which requires compliance with Region 5 objectives for this facility.

### **DDSD Is Not Entitled to a Waiver of Effluent Limits**

Even if a change from total to fecal coliform limits were allowed, the effluent limitations on total coliforms should not be suspended during a study to determine a new limit. The TO provides that the total coliform effluent limits shall not apply during the

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study to determine fecal coliform limits. This waiver is poor policy for at least two reasons. First, it will encourage DDSD to save money during the study by reducing its disinfection levels, which may endanger human health and the environment. Second, the unbounded waiver gives DDSD an incentive to drag the study out.

A reduction in disinfection could lead to an increase in pathogenic bacteria in DDSD's discharge, which could endanger human health. The receiving water is a drinking water source. DDSD's outfall is located one mile from the City of Antioch's drinking water intake and one and a half miles from one of Contra Costa Water District's ("CCWD") drinking water intakes. An increase in pathogen loading due to reduced disinfection of DDSD's effluent increases the public health risk for the 450,000 people who rely on CCWD for their drinking water. Allowing DDSD a period without effluent limits endangers both recreational users and those who rely on the waterway as a drinking water source.

As currently drafted, the TO does not limit the length of time the effluent limits will be suspended. This provides DDSD an incentive to prolong its study. As there is no basis for a waiver of effluent limits during the study, failure to delineate the length of the waiver is doubly unacceptable.

Thank you for your consideration of BayKeeper's concerns. If you have any questions or would like to discuss this matter further, please do not hesitate to contact me at (415) 856-0444 x 103 or shana@sfbaykeeper.org.

Respectfully submitted,

Shana Lazerow  
WaterKeepers Northern California